

certification are waived. If the appropriate agency notifies the District Commander that the applicant has not filed a request for water quality certification, or requests additional time to review an application, additional time will be granted.

(b) *Public meeting.* (1) Public meetings will be held when there are substantial issues concerning the effect that the proposed bridge will have on the reasonable needs of navigation.

(2) Notice of the public meeting will be published in the FEDERAL REGISTER. Notice of the meeting is also mailed to State, county, and municipal authorities and all other known interested parties. It is also posted at the post office nearest the site and public places in the vicinity.

(3) Meetings are public and conducted in an informal manner. A designated Coast Guard official presides. The submission of written statements is invited and encouraged. Anyone desiring to do so may speak. Statements, written or oral, are not under oath, and cross-examination is not permitted. No fixed order has been established for the presentation of evidence or argument although proponents are generally heard first, followed by opponents with full opportunity afforded for rebuttals.

(c) *Report and recommendations.* After the close of the comment period and any public meeting, a detailed statement of findings, conclusions, and recommendations based on all available information (including Coast Guard records and experience) is prepared. The following factors may be discussed in this report:

(1) Comparison of proposed bridge with existing bridges over the waterway; attitude of local authorities; summary of objections raised by the public, and District Commander's comments or responses; probable effect on navigation, present and prospective.

(2) Description of the navigation on the waterway past the site of the proposed bridge, the number and type of vessels, the number of vessel trips, and the principal method of handling traffic, whether in single vessels or in tows.

(3) Whether the District Commander approves, or recommends approval of the plans. If they are found objection-

able, the reasons for this finding will be stated. If there are objectionable features in the plans which may be corrected, the applicant is given an opportunity to revise them. If approval is given or recommended, all conditions to which the permit should be subject will be stated.

(d) *Action on permit application.* (1) The District Commander may issue the permit if authorized under §1.01-60(b) of this chapter; otherwise, a report with the application shall be submitted to the Commandant for final action.

(2) When an application is approved, the issuing official signs the permit and transmits it to the applicant.

(3) When an application is not approved, the applicant is notified and provided with reasons for the disapproval, and suggestions for modifications that would justify reconsideration, if appropriate.

(4) If an application is disapproved by the District Commander, the applicant may appeal this decision to the Commandant under §114.50 of this chapter. The Commandant's determination shall constitute final agency action.

(e) *Permit amendments.* Applications for amendments to permits will be processed in the same manner as permit applications. The District Commander may approve amendments to any permits which that official is authorized to issue under §1.01-60(b) of this chapter. All other amendments must be approved by the Commandant.

(5 U.S.C. 559; 14 U.S.C. 633; 33 U.S.C. 401, 491, 499, and 525; 49 U.S.C. 1655(g), and 49 CFR 1.46(c) and (q))

[CGD 80-099, 46 FR 38354, July 27, 1981; 46 FR 42268, Aug. 20, 1981, as amended by CGD 82-006, 47 FR 36641, Aug. 23, 1982; CGD 82-074, 47 FR 51865, Nov. 18, 1982; USCG-2008-0179, 73 FR 35012, June 19, 2008; USCG-2010-0351, 75 FR 49410, Aug. 13, 2010]

§ 115.70 Advance approval of bridges.

(a) The General Bridge Act of 1946 requires the approval of the location and plans of bridges prior to start of construction (33 U.S.C. 525). The Commandant has given his advance approval to the location and plans of bridges to be constructed across reaches of waterways navigable in law, but not actually navigated other than by logs, log rafts, rowboats, canoes and

small motorboats. In such cases the clearances provided for high water stages will be considered adequate to meet the reasonable needs of navigation.

(b) The term “small motorboats” shall be interpreted in the light of the things and conditions with which it is associated. The term means rowboats, canoes and other similar craft with outboard motors. It does not include sailing or cabin cruiser craft.

(14 U.S.C. 633; 33 U.S.C. 401, 491, and 525; 49 U.S.C. 1655(g); and 49 CFR 1.46(c))

[CGFR 67–46, 32 FR 17771, Dec. 12, 1967, as amended by CGD 81–076, 46 FR 54936, Nov. 5, 1981; USCG–1998–3799, 63 FR 35527, June 30, 1998]

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

Sec.

116.01 General.

116.05 Complaints.

116.10 Preliminary review.

116.15 Preliminary investigation.

116.20 Detailed investigation.

116.25 Public meetings.

116.30 Administrator, Office of Bridge Programs Review and Evaluation.

116.35 Order to Alter.

116.40 Plans and specifications under the Truman-Hobbs Act.

116.45 Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible for funding under the Truman-Hobbs Act.

116.50 Apportionment of costs under the Truman-Hobbs Act.

116.55 Appeals.

AUTHORITY: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

EDITORIAL NOTE: Nomenclature changes to part 116 appear at 73 FR 35012, June 19, 2008 and 75 FR 49410, Aug. 13, 2010.

SOURCE: CGD 91–063, 60 FR 20902, Apr. 28, 1995, unless otherwise noted.

§ 116.01 General.

(a) All bridges are obstructions to navigation and are tolerated only as long as they serve the needs of land transportation while allowing for the reasonable needs of navigation.

(b) This part describes the general procedures by which the U.S. Coast Guard determines a bridge to be an unreasonable obstruction to navigation and issues an Order to Alter under the

authority of the following statutes, as appropriate: Section 18 of the Rivers and Harbors Appropriations Act of 1899, 33 U.S.C. 502; Section 4 of the Bridge Act of 1906, 33 U.S.C. 494; or the Truman-Hobbs Act of 1940, as amended, 33 U.S.C. 511–524.

(c) A bridge constructed across a navigable water of the United States shall not unreasonably obstruct the free navigation of the water over which it was constructed, either due to insufficient height or width of the navigation span, or because of difficulty in passing through the draw opening. If any bridge unreasonably obstructs navigation, the Commandant, U.S. Coast Guard, will order the alteration of that bridge. Alterations may include structural changes, replacement, or removal of the bridge.

(d) Whenever the Coast Guard has good reason to believe that a bridge across any of the navigable waters of the United States is an unreasonable obstruction to navigation, the Coast Guard will give notice to the owner of the bridge and other interested parties, and hold a public meeting at which the interested parties will have a full opportunity to be heard and to provide information on the question of whether alterations to the bridge are necessary and, if so, the extent of alterations needed.

(e) If the Coast Guard determines that alterations to a bridge are necessary, the Commandant, U.S. Coast Guard, will issue to the bridge owner an Order to Alter containing details of the alterations necessary to render navigation through or under the bridge reasonably free, easy, and unobstructed.

(1) In the case of a railroad or publicly owned highway bridge, an Order to Alter is issued to the bridge owner under the provisions of the Truman-Hobbs Act (33 U.S.C. 511 *et seq.*). In ordering these alterations, the Coast Guard will give due regard to the necessities of free and unobstructed navigation and of rail and highway traffic. For alterations to bridges governed by the Truman-Hobbs Act, the Coast Guard must approve general plans, specifications, and contracts for the alteration project, as well as approving the apportionment of the total cost of